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Chairman: Mr. Galuška ..... (Czech Republic)

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99-82121 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 109: Advancement of women (*continued*) (A/C.3/54/L.14/Rev.1)

Draft resolution A/C.3/54/L.14/Rev.1 on the International Day for the Elimination of Violence against Women

1. **The Chairman** said that draft resolution A/C.3/54/L.14/Rev.1 had no programme budget implications.

2. **Ms. Aguiar** (Dominican Republic), speaking on behalf of the sponsors, said that China, Japan and the Seychelles Islands had become sponsors. Her delegation exhorted Member States to adopt the draft resolution, which had a great number of sponsors.

3. **The Chairman** said that the Czech Republic, Eritrea, Mongolia and Viet Nam also wished to sponsor the draft resolution.

4. *Draft resolution A/C.3/54/L.14/Rev.1 was adopted.*

Agenda item 116: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/54/40, 44, 56, 65, 80, 91, 98, 177, 189, 277, 346, 348, 368, 387 and 426; A/C.3/54/5)

5. **Mr. Umeda** (Japan) said that, in June 1999, Japan had acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and would continue its involvement in the working group elaborating a draft optional protocol to that Convention. In addition, the Japanese Government continued to make annual financial contributions to the United Nations Voluntary Fund for Victims of Torture.

6. Worldwide acceptance of human rights standards had increased, but not enough had been done to tackle the problem of overdue reports to human rights treaty bodies, or the problem of the backlog of reports to be considered. In order for such reports to be useful, they must be considered in a timely and appropriate manner. The time had come to improve the working methods of treaty bodies, and to take measures to avoid duplication. The Office of the United Nations High Commissioner for Human Rights must be allocated a sufficient budget to support the continually increasing work of the treaty bodies.

7. The Japanese Government firmly believed that each Member State should carefully study the matter of whether to retain or abolish the death penalty, taking into consideration the views of the population, the status of crime in that country and national criminal-justice policy.

8. Under the Japanese legal system, the death penalty was applied only for heinous crimes like mass murder, and always in accordance with the strictest judicial procedures. The Japanese Supreme Court had stated that capital punishment could be applied only when the criminal's responsibility was extremely grave and the maximum penalty was unavoidable, taking into consideration, *inter alia*, the need for general prevention, the nature, motive and mode of the crime, the persistence and cruelty of the means of killing, the seriousness of the consequences, the number of persons killed, the feelings of the bereaved and the effect on society.

9. Furthermore, the Government was convinced that its use of the death penalty was consistent with the terms of article 6, paragraph 2, of the International Covenant on Civil and Political Rights. In addition, national opinion polls had shown that most Japanese believed that the death penalty should be retained.

10. Recent discussions in various international forums had demonstrated that a worldwide consensus on the abolishment of the death penalty did not exist; indeed, the Convention itself left that decision to each State party notwithstanding the terms of the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. The Japanese Government would therefore oppose draft resolution A/C.3/54/L.8 submitted by Finland, which recommended abolition.

11. **Ms. Tomić** (Slovenia) said that her Government subscribed to the statement delivered by Finland on behalf of the European Union and associated States. Accession to a treaty was not an end in itself; international legal instruments must be applied within the domestic legal order of each State party. In fact, under the Vienna regime on the law of treaties, human rights norms must be seen as essential rights to which every human being was entitled. The absence, therefore, of a provision explicitly prohibiting reservations to a treaty — as was the case with the International Covenant — did not mean that reservations were permissible. On the contrary, the Vienna Convention on the Law of Treaties established in article 19 that an "object and purpose" test must govern the interpretation and acceptability of reservations. The Slovene Government agreed with general comment 26 of the Human Rights Committee, which posited that international law did not permit denunciation of or withdrawal from the Covenant or its Protocols. Although emphasis must be placed on ensuring

the implementation of existing human rights norms, certain standards remained to be set.

12. Her Government supported the elaboration and early adoption of the two optional protocols to the Convention on the Rights of the Child and of the optional protocol to the Convention against Torture, and looked forward to the opening for signature of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

13. Furthermore, it was imperative to resolve the disparity between humanitarian and human-rights norms and the flagrant violation of such norms, and to bring perpetrators to justice. Her Government welcomed the enthusiastic adoption of the Rome Statute of the International Criminal Court, and hoped for its rapid entry into force, an important human rights priority. It supported efforts to implement the United Nations Declaration on Human Rights Defenders. The Government also supported the crucial work of the treaty bodies and efforts to ensure them sufficient budget and staff support. In its view, however, the reporting system should be reformed to reduce overlap and to consolidate the report burden.

14. Lastly, her Government supported progressive restriction of the death penalty with a view to its eventual abolition. The *de jure* or de facto elimination of the death penalty by many countries, and its exclusion by the international criminal tribunals including the International Criminal Court under the terms of the Rome Statute were encouraging. In the view of the Slovene Government, the Second Optional Protocol to the International Covenant was the legal instrument that would assist States in abolishing the death penalty; in the meantime, it was imperative strictly to respect international obligations relating to the death penalty, in particular the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.

15. **Mr. Valdivieso** (Colombia) said that Colombia had become a party to many international human-rights instruments, including 20 United Nations instruments and 10 regional American ones. It supported the initiative of the High Commissioner for Human Rights to achieve universal ratification of the six core human rights treaties by 2003. The Government had submitted periodic reports to all six of those bodies, and in 1995 had established a committee to assess the Government's application of their recommendations. Composed of high-level government officials, its task was to promote the implementation of the recommendations by competent national institutions with the assistance of non-governmental organizations, to inform the treaty bodies about measures adopted, and to invite human-rights experts to visit the country.

16. Colombia had asked the Office of the High Commissioner for Human Rights to set up an office in Colombia in order to evaluate measures taken by the Government, to strengthen national institutions, to seek means of fulfilling international recommendations and to assist members of civil society who worked in defence of human rights. Civil groups and associations were essential for democracy; unfortunately human-rights defenders in Colombia, including trade unionists, advocates of indigenous rights, and political and social activists had been the target of persecution and threats from criminal groups and "self-defence" groups. The Government's new programme for the protection of witnesses and persons who had been threatened had protected the offices of non-governmental organizations and persons under threat, and had evaluated the situation of vulnerable groups, including journalists and other members of the mass media. The Government took the problem seriously and would continue to struggle against the internal armed conflict and the "self-defence" groups.

17. With regard to the death penalty, he said that although Colombia had abolished the death penalty early in the century, and supported its worldwide abolition and the gradual restriction of the number of crimes for which that sentence could be applied, it believed that each country should be free to choose whether to retain or abolish it. Colombia, for its part, had incorporated into its domestic legislation the 1969 American Convention on Human Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, both of which expressly forbade the death penalty. Although during Colombia's years of violence and domestic conflict, some members of society had clamoured for the return of the death penalty, the vast majority of Colombians still supported its prohibition. Colombia had therefore joined with the group of countries that favoured abolition.

18. **Mr. Wehbe** (Syrian Arab Republic) said that his delegation viewed draft resolution A/C.3/54/L.8, which advocated abolition of the death penalty, as a flagrant violation of the principle of mutual respect for the sovereignty of States and of non-interference in their internal affairs. It represented an attempt to force other States to change their political, judicial, social and cultural structures.

19. Several States had enacted legislation providing for the imposition of the death penalty in order to protect the rights of victims, taking account of a variety of judicial, social, religious and cultural factors. Just as the Syrian Government had no authority to influence the judicial system

in other States, so it was inconceivable that a group of States should seek to impose their views, in fact asking for the removal of legislation from national statute books. Democracy was predicated upon non-interference with the authority of the legislature, yet a group of so-called democratic States was acting on the basis of the precept "one size fits all".

20. States that imposed the death penalty had always respected the prerogative of those that did not, yet their tolerance did not appear to be reciprocated. Every State had its own particular legal system and no other States had the right to superimpose their value systems upon it.

21. The application of the death penalty was an issue for criminal justice, not human rights. Efforts to abolish the death penalty rewarded the criminal and violated the human rights of the victims. The primary focus of pro-abolition States should be the rights of victims, not the nature of the punishment.

22. Syria, which had acceded to the International Covenant on Civil and Political Rights, only applied the death penalty in exceptionally serious circumstances, providing the offender with legal guarantees, including the right to self-defence. Persons found guilty were justly punished in order to protect the rights of innocent victims.

23. Syria hoped that the sponsors of the draft resolution would reconsider the text. Interfering with the work of the judicial system of another State ran counter to the rules of international diplomacy. Member States should continue to be guided by the principle of non-interference and respect for the sovereignty of other States and should comply with the spirit and the letter of the Charter and the norms and principles of international law.

24. **Mr. Sun Ang** (People's Republic of China) said that China had ratified many human-rights instruments, including the two International Covenants and had always fulfilled its obligations thereunder in a responsible manner. His Government had recently submitted periodic reports to the Committee on the Elimination of All Forms of Discrimination against Women and the Committee against Torture (both containing special sections describing the implementation of the relevant conventions in the Hong Kong Special Administrative Region), and was preparing reports for the Committee on the Elimination of All Forms of Racial Discrimination and the Committee on the Rights of the Child. The reporting requirements were excessive, however; they failed to take into consideration the particular conditions of States parties, especially those of developing countries, and earmarked resources that could be better used to protect human rights. Though many countries had called for reform, no noticeable progress had as yet been made. The Chinese Government hoped that States parties and treaty bodies would enhance their communications with a view to ensuring that the reporting process played a constructive role in the advancement of human rights.

25. China respected the choice of some countries to abolish the death penalty in keeping with the Second Optional Protocol to the International Covenant on Civil and Political Rights; by contrast, other countries had chosen to uphold the death penalty. The Chinese Government believed that those choices should be respected and that the principle of sovereign equality must govern relations between States.

26. **Ms. Toe** (Burkina Faso) stressed her Government's commitment to human rights, democratic institutions and an independent judiciary. Burkina Faso was a party to numerous international human rights instruments which prevailed over domestic law and could be directly invoked before the courts. The new Penal Code also covered crimes against humanity, violence against women and freedom of marriage. Certain punishments had been abolished such as forced labour, exile, detention and deportation. The Government had also sought to rehabilitate and provide compensation to persons who had received unjust sentences under previous regimes.

27. Having established the appropriate legislative and institutional mechanisms at the domestic level, Burkina Faso could appeal to the international community on the question of human rights. The issue was also that of citizens' access to legal recourse and of States' right to development. In theory, the world was wealthy enough to realize human rights for all, yet because of an iniquitous international order, States such as Burkina Faso did not have the means to guarantee their citizens the full array of rights.

28. **Mr. McKenzie** (Trinidad and Tobago) said that his Government was committed to realizing the human rights of all its citizens and to guaranteeing them due process of law. It was thus that Trinidad and Tobago had become a party to several international human rights instruments and that all the fundamental rights were enshrined in law.

29. His delegation was concerned that, in draft resolution A/C.3/54/L.8 on the question of the death penalty, an attempt was being made in paragraph 3 (b), to persuade States which maintained the death penalty — albeit for the most serious crimes — to establish a moratorium, with a view to its ultimate abolition. However, international law recognized the death penalty as a legitimate mode of punishment available to States in exercise of their sovereign right to decide on the form of punishment for serious crimes. Indeed, major international and regional human rights instruments

sought to limit — but not abolish — capital punishment. They did not demand that States should amend their laws in respect of the death penalty, but rather provided certain important safeguards (as in Economic and Social Council resolution 1984/50). Those safeguards were strictly observed in Trinidad and Tobago. Furthermore, in those Commonwealth Caribbean States which recognized the Judicial Committee of the Privy Council as the highest court, it was now unlawful to execute a condemned prisoner who had been detained for a substantial period of time under sentence of death; such treatment was held to constitute "cruel and inhuman treatment".

30. With regard to the Second Optional Protocol, aiming at the abolition of the death penalty, it was within the sovereign jurisdiction of a State to decide on the issue of abolition. The adoption of the Optional Protocol had no bearing on the legality or illegality of a State's laws on capital punishment. There was, after all, no international consensus regarding abolition. Each State was entitled to protect its citizens and the human rights of the victims of the most serious crimes as it saw fit, and depending on its social, moral, cultural, legal and economic specificities. Trinidad and Tobago could not support any attempt to use the United Nations as a tool for interference in the domestic affairs of sovereign Member States. Although his delegation recognized that traditional notions of sovereignty were evolving, States must acknowledge the international consensus which upheld the right of countries to carry out the death penalty subject to the internationally prescribed safeguards. Those making symbolic gestures against the death penalty should spare some thought for the victims of serious crimes.

31. **Mr. Mahbubani** (Singapore) posited that the question of the death penalty would be a defining issue of the current session. The debate, however, was not about the merits of the death penalty, which was too complex an issue to be resolved in seven-minute speeches, no matter how passionate and morally self-righteous they might be. Ultimately, it was for each society to determine the matter for itself, as Singapore had pointed out in a letter to the United Nations High Commissioner for Human Rights (A/C.3/54/5). The real issue was whether a small group of States should raise the question of the death penalty in a divisive manner, attempting to "bludgeon" others into accepting their view. His delegation hoped to persuade the European Union, in a friendly manner, that it had been unwise to put forward draft resolution A/C.3/54/L.8. Since he had only seven minutes to make his point, he would give seven reasons.

32. Firstly, the European Union might only reignite the anger of the dragon which was already threatening the United Nations. The group of Western European and Other States had recently gone through considerable manoeuvres in the Fifth Committee to rearrange their candidatures for one key committee, all with the purpose of pacifying one important country. Given that the death-penalty issue was liable to provoke that same country, one might ask whether one arm of the European Union was aware of what the other arm was doing.

33. Secondly, the move showed tremendous cultural and religious insensitivity. In that connection, his delegation had been puzzled to read that the United Nations was planning to make the Coliseum in Rome a symbol of the cause for the abolition of the death penalty, and wondered whether Member States had been consulted.

34. The third reason why the European move was unwise was that it would lead to a serious backlash against the United Nations and against some of the more progressive advances made by the international community. There was evidently a discernible trend towards acceptance of diminished sovereignty in today's interdependent world, but that acceptance depended on a clear acknowledgement that sovereignty in certain areas was undisputed. Given that crime affected people's lives directly, people wished to be directly in charge of their criminal-justice policies. As recent experience had shown, controversial General Assembly resolutions pushed through with simple majorities risked generating a significant backlash and could even explain why the United Nations was "crippled" today. It would be unwise for the European Union to put the United Nations on a collision course against the vast majority of the world's people when a simple collision course against one country had already damaged the Organization so much.

35. Fourthly, the European Union appeared to have chosen, as it so often did on human-rights questions, to "feel good" instead of "doing good". Safeguards were, indeed, essential, and Singapore, like the United States, would support any European Union move to strengthen them. Singapore agreed that it was important to prevent the execution of innocent people, which was why it intended to propose an amendment to paragraph 3 of the draft resolution to emphasize the need for due process. His delegation wished to challenge the European Union to show moral courage by supporting the amendment, even if it risked provoking the wrath of its non-governmental organizations in so doing. Due process could save innocent lives, whereas moral posturing on the abolition of the death penalty could not.

36. Fifthly, the European Union appeared to be using coercion in its efforts to muster support for the draft

resolution. It had come to his attention that dark hints had been made that European Union assistance to a State member of the Non-Aligned Movement would be affected if that State joined in sponsoring Egypt's amendments. His delegation would welcome a clear statement from the European Union that it would not use aid as a weapon in the debate.

37. His sixth point was that the European Union had failed to explain why the death penalty was a human-rights and not a criminal-justice issue. To abolish capital punishment without abolishing murders would mean that the right to life of killers was defended more than the right to life of innocent victims. Abolitionists should also explain how States which maintained the death penalty as part of their criminal-justice system could be considered violators of human rights. In many parts of the world, the rule of law and the popular will of the people clearly supported the death penalty. Each year, many judges signed execution warrants in great personal anguish. Surely the United Nations was not intending to accuse such judges of violating human rights simply because a General Assembly resolution had so decided?

38. His seventh point was that the European Union had launched its initiative in an underhand manner which had led to an erosion of trust. The Union had sought to collect sponsors behind the scenes in order to surprise the Committee with a fait accompli. If the European Union had been fully convinced of the merits of the draft resolution, it would not have introduced it "through the back door". His delegation challenged the Union to a discussion at any time, without a "seven-minute gag ruling". If the cause of abolitionists were truly moral, they would not need to resort to "Machiavellian means".

39. The European Union representatives met every seven days; it was to be hoped that, when they met at the end of the week, they would note the reactions of Member States to their move and withdraw the initiative until a clear international consensus had emerged. If they decided to proceed, they must be ready for all the consequences.

40. **Mr. Widodo** (Indonesia) said that Indonesia's human rights programme, like that of other nations, was evolving to meet the needs and challenges of the day. Its goals increased in parallel with its capacities for implementation. The promotion and protection of human rights was no easy task, nor could it realistically be undertaken in a short time-frame. Indonesia's national plan of action on human rights, which had been adopted in a context of political reforms, sought to create a human rights culture in all sectors of society. A decree adopted in 1998 further stipulated the need to revise legislation, to ratify human rights instruments and to create the necessary institutional mechanisms to monitor their implementation and dissemination.

41. Rapid progress had been made in implementing the plan: Indonesia had recently ratified the International Convention on the Elimination of All Forms of Racial Discrimination, and had taken steps to accelerate the ratification of a number of other basic international human-rights instruments. The new Government was fully committed to promoting human rights throughout the country.

42. Indonesia was neither an ardent supporter nor a practitioner of the death penalty. That was a form of punishment seldom applied in his country, even for the most serious crimes. However, an important principle at stake was the sovereign right of States to protect the safety of their people and to determine the strength of their own criminal-justice systems. Draft resolution A/C.3/54/L.8 would infringe that sovereign right. His delegation also wished to caution the Committee against becoming a venue in which one group of Member States sought to impose moral values on others or even on the entire international community. It was fundamentally wrong for countries to presume that their systems of justice — adopted to reflect their specific needs and social values — were universally valid. Rather, the culture of each Member State must be respected.

43. A consideration of the draft resolution would only be a cause for divisiveness. It would also underscore the absence of an international consensus on the issue. His delegation could not support the draft resolution, which constituted interference in sovereign affairs.

44. **Ms. Akbar** (Antigua and Barbuda) said that the question of capital punishment should rightfully be addressed as a matter of administration of justice within a State. Every State had the right to determine, within accepted boundaries, what punishment should be enforced for the commission of crimes, and deserved respect for their right to uphold their constitution and comply with their general laws.

45. Since so few States had acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, the European Union could have been expected to take a more constructive approach to presenting its initiative on the question of the death penalty. Instead, it had behaved precipitously, failing to take account of the absence of a consensus. The European Union would have done better to appeal first for wider ratification of the International Covenant on Civil and Political Rights and to wait for a convergence of views.

46. Although advocates of the abolition of the death penalty argued that international support for abolition was growing, the low level of ratification of the Second Optional Protocol suggested the contrary.

47. The Governments of the Caribbean which retained the death penalty complied with various regional and international human-rights conventions, all of which recognized the absence of international consensus on capital punishment. Moreover, persons accused of capital crimes were protected by a number of safeguards in Caribbean States, including due process of law and a finding of insanity. Some Caribbean States even compensated victims of unlawful arrest or detention.

48. During the penalties phase of the 1998 Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, it had been decided that nothing in the Court's Statute would affect the right of States to apply the penalties prescribed by their national law. The President of the Conference had further noted the absence of an international consensus on the death penalty, stating that the Court would not be able to affect national policy, and that non-inclusion of a reference to the death penalty would have no legal bearing on national laws and practices and should not influence customary law or penalties imposed by national systems for serious crimes.

49. The only real international consensus that existed supported the right of States to apply the death penalty, in keeping with their national laws. Until a contrary consensus was reached, initiatives such as that of the European Union could only be seen as, at the very least, ill-advised.

50. **Ms. Russell** (Barbados) said that those countries that supported the abolition of the death penalty, some of which had not themselves become a party to the Second Optional Protocol, seemed to believe that abolition should apply to all cultures, societies and countries whether or not it was suitable, necessary or agreeable to the people it was supposed to protect.

51. The abolition issue was felt particularly keenly in the Caribbean, especially in the former European colonies, many of whose laws and judicial practices were based on British or European models, although legal systems had been developed after independence to protect the specific needs of Caribbean societies.

52. The Constitution of Barbados guaranteed the right to life, subject to limitations that were designed to ensure a balance between individual rights and freedoms and the rights of others and respect for the public interest.

53. In pre-independence Barbados, there had been no written constitution and a person convicted of murder could appeal to the local Court of Appeal and thereafter to the Judicial Committee of the Privy Council in London. The post-independence Constitution stated that no person should be subject to torture or to inhuman or degrading punishment or treatment, but that capital punishment was not inconsistent with that imperative. However, the will of the Government and of the people of the Caribbean generally had been frustrated by decisions of the Judicial Committee of the Privy Council, which had the effect of preventing the application of the death penalty. Barbados was therefore making constitutional amendments to rectify the situation.

54. Barbados had acceded to the International Covenant on Civil and Political Rights, its First Optional Protocol, and a number of other instruments. However, it had not become a party to the Second Optional Protocol, and only a small number of States had done so. Barbados affirmed its sovereign right to choose its own judicial system, and hoped that the respect it had shown for the views of others would be reciprocated.

55. Barbados had consistently opposed the abolition of the death penalty, an issue where no international consensus existed. States seeking to enforce their views should remember that international instruments were legally binding only on the States that had ratified or acceded to them.

56. Barbados not only resisted abolition; it would also take all necessary measures to combat the uncertainty in the Caribbean region about the power of Governments to carry out the death penalty engendered by the decisions of the Privy Council and by the attitudes of international human-rights bodies which sought to impose European abolitionist views.

57. **Mr. Aboulgheit** (Egypt) said that all human rights were indivisible and that States should seek to strengthen political, civil, social, economic and cultural rights, including the right to development without distinction. Egypt had acceded to over 18 international instruments, and was working to bring its legislation into line with them and to eliminate any inconsistencies, while safeguarding its own cultural and religious characteristics.

58. Egypt and many other States had already addressed the question of the death penalty in the context of crime prevention and criminal justice. The fact that the same issue had been raised again as a human-rights question underlined a conceptual divergence between States. The International Covenant on Civil and Political Rights dealt with the issue of the death penalty in the context of guarantees for the offender, while its Second Optional Protocol was binding

only on the few signatories to it. Any other discussion of the death penalty was a matter of purely philosophical debate over an issue on which there was clearly no international consensus.

59. The real issue was to what extent the European Union was prepared to enter into meaningful dialogue, based on mutual respect for the cultural differences and value systems of different societies. The European Union's reiteration of it commitment to fighting the application of the death penalty reflected an interventionist stance that could not be accepted in the context of contemporary international relations.

60. While the States members of the European Union had the sovereign right to remove the death penalty from their statute books, in keeping with their laws and value systems, they had no right to refuse to allow other States to act as they saw fit.

61. The draft resolution caused division at a time when constructive dialogue and consensus-building were needed in order to face the many challenges of the new century. His delegation therefore called on the European Union to reconsider its position.

62. Such debates only confirmed the need to reform the approach to human-rights questions, so as to reflect the cultural diversity of the contemporary world and to strengthen the rights and freedoms of the individual and society. Recent calls for such reform were born of a political desire to protect human rights in the context of international consensus, rather than through the unilateral imposition of a single cultural model.

63. **Mr. Goledzinowski** (Australia), speaking on behalf of his own country and also Canada, New Zealand and Norway, said that one of the great achievements of the twentieth century was the recognition that, in accordance with the Universal Declaration of Human Rights, all human beings were born free and equal in dignity and rights. All States had a duty to promote and protect all human rights and fundamental freedoms. A corollary of that was the acknowledgement by the community of nations that respect for human rights was legitimately a matter of international concern.

64. The United Nations treaty-body system contributed directly to the promotion and protection of human rights. It was, however, coming under increasing strain. Over a thousand reports to treaty bodies were overdue and, if the current trend regarding individual communications was maintained, the average time to respond to them would have risen by the end of 1999 to 36 months. Similarly, the caseloads of the Committee against Torture and the Committee on the Elimination of Racial Discrimination were rising. While some steps had been taken to implement the recommendations in Professor Alston's study on treaty-body reform submitted to the Commission on Human Rights (E/CN.4/1997/74), more could be done. In that regard, he welcomed the commissioning by the High Commissioner for Human Rights of a study on the treaty bodies and noted that its conclusions were expected during the current year. While the study would no doubt provide valuable insights and impetus for reform, it was important that States should develop and promote their own ideas for enhancing the efficiency of the system. They must, of course, work in cooperation with the United Nations agencies, the High Commissioner for Human Rights and the treaty bodies themselves in pursuing those ideas.

65. The delegations he represented recognized that the treaty-body system needed more resources. The increased allocation to the Office of the High Commissioner for Human Rights would better enable it to play its pivotal role of coordinating the treaty bodies. Additional funding must, however, come from the United Nations core budget. Moreover, resources must be used more effectively. The meetings of chairpersons of the treaty bodies had already proved of benefit in that regard, helping to institute procedural reform and improve cooperation between the treaty bodies. States, too, could help by, as some had already done, submitting shortened reports focusing on issues of particular concern or providing training for countries needing assistance in improving their reporting capacity. In addition, the suggestion had been made that the Human Rights Committee should establish "chambers", or subcommittees, to reduce the time taken to reach decisions on communications.

66. It was to be hoped that the new century would see the realization of the promise of the Universal Declaration of Human Rights. The more efficient and effective functioning of the treaty bodies would be an important contribution towards that.

67. **Mr. Bhatti** (Pakistan) said that the question of the death penalty pertained essentially to the realm of crime prevention, but was being wrongly characterized as a human rights issue. Crime prevention policy in any given society would continue to derive from the interplay of multiple factors based on that society's historical experience, cultural ethos and social values. His delegation respected the sovereign choice of those countries which had abolished the death penalty and expected corresponding respect for its own options.

68. Even from a human-rights perspective, the issue of the death penalty could not be seen in isolation. It must be seen in the context of the right to life of crime victims and their dependants and of society at large.

69. As the President of the 1998 Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court had observed, there was no international consensus on the abolition of the death penalty. Even the International Covenant on Civil and Political Rights recognized States' right to impose the death penalty pursuant to a final judgement rendered by a court in accordance with national law.

70. It was regrettable that the European Union had submitted a draft resolution on such a divisive issue, particularly as preparations were under way for the United Nations Year of Dialogue among Civilizations, the aim of which was to enrich the common heritage of mankind by strengthening synergies between cultures and value systems.

71. **Mr. Chaturvedi** (India) observed that, while treaty bodies had begun by stressing the rights of the individual, subsequently collective rights as reflected in, for example, the Declaration on the Right to Development and the Declaration on the Right of Peoples to Peace had emerged as important components of human-rights law. Those who did not see collective rights as human rights would do well to refer to article 27 of the International Covenant on Civil and Political Rights. It was with those things in mind that India would comment on the reports before the Committee.

72. India was current in its reporting obligations to the Human Rights Committee. It urged all States to ensure that they were too, and was pleased that the Committee had established revised procedures regarding discussion with those which were not. The Committee had spelt out how the limited resources affected its ability to discharge its mandate. That problem, of course, also affected intergovernmental bodies. Unfortunately, the Secretariat continued to suggest that it could do everything it was asked to do within existing resources. How that could be achieved was a mystery, especially when resources were continually being diverted to the pursuit of a limited and often political agenda. The latest example of that had been the special session of the Commission on Human Rights on East Timor, which had been convened by methods bordering on chicanery and was being followed by the lavishing of resources on a controversial mandate, to the detriment of work of general interest.

73. The Secretary-General's report on the status of the United Nations Voluntary Fund for Victims of Torture (A/54/177) showed that the Fund had had over $5 million at its disposal for 1999 and had disbursed that as a result of its increasing workload. His delegation supported the Fund's work, although the trustees should look more closely at the antecedents of beneficiaries, some of whom had passed themselves off as human-rights defenders while having close links with terrorist groups and criminal organizations.

74. The Secretary-General's report on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (A/54/348) showed that an absence of contributions had prevented the trustees from meeting for two years and that no funds were yet available for the year 2000 work programme. Developing countries had as much interest in the work supported by that Fund as in the work supported by the Voluntary Fund for Victims of Torture, but other countries did not; he hoped their attitude would change.

75. It was clear from the Secretary-General's report on the status of the International Covenants and of the Optional Protocols to the International Covenant on Civil and Political Rights (A/54/277 and Corr.1) that only a small minority of States subscribed to the Second Optional Protocol. In the context of a certain draft resolution currently before the Committee, he trusted that no attempt would be made to impose on the majority, at the current session or elsewhere, views of such limited currency that it would be a travesty to try to project them as a norm.

76. Regarding the Secretary-General's report on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/54/346), he drew attention to the reference in paragraph 5 to the signing of a memorandum of understanding. That memorandum had not been presented to the Executive Board of the United Nations Development Programme (UNDP) nor, probably, to the Commission on Human Rights. India maintained its consistent position that the role of UNDP in human rights must primarily be to focus on the eradication of poverty and to promote through practical measures the right to development.

77. **Mr. Asomani** (Office of the United Nations High Commissioner for Refugees (UNHCR)) said that the closing years of the century had provided all too graphic reminders of the relationship between human-rights violations and the forced displacement of millions of people. Many of the conflicts and crises of the past year had been caused by failure to give due recognition to the human rights and legitimate aspirations of social groups or ethnic minorities.

78. The conflicts in Kosovo, Sierra Leone and East Timor had underlined the international community's shared responsibility to address the broader peace and security

concerns raised by forced displacement and to mitigate its humanitarian consequences. The high media attention to Kosovo and East Timor had regrettably tended to eclipse unresolved refugee problems elsewhere. UNHCR shared the concern expressed by a number of States at its recent Executive Committee meeting about the disparity in support and funding for refugee programmes worldwide: the problems caused by forced displacement must be addressed no matter where they occurred.

79. UNHCR considered the deliberate targeting of innocent civilians one of the most offensive characteristics of the conflicts in the Balkans, Rwanda, Sierra Leone, Liberia and East Timor. UNHCR was deeply concerned that rape was increasingly being used as a weapon in armed conflict. Rape and killing of children had become deliberate tactics of war. Their consequences and those of other atrocities such as summary executions and the exploitation of child soldiers would be felt for years.

80. The primary purpose of humanitarian protection and assistance was to ensure that people displaced by conflict, persecution or serious human-rights violations remained safe and were able to sustain themselves in dignity during their displacement. Basic human rights were of practical importance at all phases of the displacement cycle.

81. First, people whose fundamental rights were at risk must have access to places of safety as long as was reasonably necessary. In many cases, that meant they had to leave their country. UNHCR believed that preservation of the right of all people to seek and enjoy asylum outside their home States was crucial.

82. Second, there was the question of that right's qualitative content: once they had found temporary sanctuary, people must be treated in a dignified and humane way until they could return freely to their home countries. States increasingly imposed severe restrictions on refugees' freedom of movement, right to family reunification, access to basic medical and educational facilities and ability to support themselves and their families. While it recognized States' legitimate concerns, UNHCR was also anxious that the basic rights and special needs of refugees and other forcibly displaced persons should be properly heeded. Internationally agreed human rights, especially those in the International Covenant on Economic, Social and Cultural Rights, could help to provide the structure for humanitarian efforts and ensure that they were objectively based, coherent and principled.

83. Third, humane and lasting solutions must be found to the misery of displacement. In that regard, too, UNHCR had found that organizing its work around the core rights to safety, housing, food, clothing, medical care and education provided a coherent basis on which family and community life could be sustained during displacement and rebuilt when people returned to their countries.

84. The rights-based approach throughout the cycle of displacement helped to strengthen inter-agency collaboration and was of great value in agencies' collective planning and implementation of comprehensive strategies for the rehabilitation and reconstruction of war-torn societies.

85. UNHCR knew from first-hand experience that the legacy of violence was violence, and that a revitalization of human-rights principles and of the structures of law and order was needed to change that. The direct relationship between human-rights violations and refugee flows showed that human-rights problems were concrete problems requiring urgent, concrete solutions. Respect for human rights must be at the centre of humanitarian responses, but political support from the Security Council and the General Assembly was also crucial, since so much humanitarian action was carried out in or near conflict areas. UNHCR must have safe and real access to displaced people if it was to protect them from the worst excesses of conflict.

Organization of work

86. **Ms. de Armas García** (Cuba) expressed concern that the workload during the General Assembly session sometimes prevented delegations from preparing adequately, or being present for the taking of decisions on important matters. The situation might be alleviated if decision-making was postponed until near the end of the working day.

87. **The Chairman** suggested that, in order to meet that concern but to avoid extending meetings, the Committee should henceforth take decisions at 3 p.m. on specified days, with the secretariat continuing to provide delegations with at least two days' notice of such days.

88. *It was so decided.*

The meeting rose at 12.45 p.m.

United Nations A/C.3/54/SR.31

General Assembly
Fifty-fourth session

Official Records

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Third Committee

Summary record of the 31st meeting
Held at Headquarters, New York, on Wednesday, 3 November 1999, at 3 p.m.

Chairman: Mr. Galuška ..... (Czech Republic)

Contents

Agenda item 109: Advancement of women (*continued*)

Agenda item 116: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*)

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99-82139 (E)

The meeting was called to order at 3.20 p.m.

Agenda item 109: Advancement of women (*continued*) (A/C.3/54/L.18/Rev.1)

Draft resolution A/C.3/54/L.18/Rev.1: Violence against women migrant workers

1. **Ms. Ramiro Lopez** (Philippines) said that Belgium, Burkina Faso, Cape Verde, Colombia, Congo, Costa Rica, El Salvador, Ghana, Haiti, Indonesia, Ireland, Kenya, Liberia, Malawi, Mali, Morocco, Nicaragua, Pakistan, Paraguay, the former Yugoslav Republic of Macedonia and Togo had become sponsors of the draft resolution. She hoped that it would be adopted by consensus.

2. **The Chairman** said that if he heard no objection, he would take it that the Committee wished to adopt draft resolution A/C.3/54/L.18/Rev.1.

3. *Draft resolution A/C.3/54/L.18/Rev.1 was adopted.*

Agenda item 116: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/54/40, A/54/44, A/54/56, A/54/65, A/54/80, A/54/91, A/54/98, A/54/177, A/54/189, A/54/277, A/54/346, A/54/348, A/54/368, A/54/387 and A/54/426; A/C.3/54/5; A/C.3/54/L.8, A/C.3/54/L.31 and A/C.3/54/L.32)

Draft resolution on the question of the death penalty (A/C.3/54/L.8, A/C.3/54/L.31 and A/C.3/54/L.32)

4. **Ms. Ramiro Lopez** (Philippines) said that her Government could not support any resolution that called for the progressive abolition of the death penalty or for the establishment of a moratorium on executions. The International Covenant on Civil and Political Rights established the manner in which the death penalty should be imposed in a criminal justice system and a democratic civil society. As a State party to that Covenant, the Philippines imposed the death penalty only for heinous crimes and with full respect for due process and with safeguards for the rights of the accused, including the right to seek clemency or commutation of the sentence. Furthermore, the Philippines did not impose the death penalty on anyone under the age of 18; it had set extremely strict requirements for the imposition of that penalty; and it ensured that only the most humane procedures were employed in carrying out the sentence. It had established a Presidential Committee which reviewed the cases of those sentenced to death and the Constitution empowered the President to pardon individuals sentenced to death or to commute their sentences, a prerogative which he had used on four occasions.

5. While it was important to respect the opposition of other delegations to the death penalty and their right to seek its abolition, it was unfair for some States to impose their will on others. Her delegation considered that a balance must be found between humanitarian concerns and the need for social justice; it therefore maintained its position, which reflected the sovereign will of the people of the Philippines.

6. **Mr. Al-Dosari** (Bahrain) said that in his country the death penalty was imposed only for the most serious crimes, such as murder, illicit drug trafficking and kidnapping. The abolition of the death penalty would have serious consequences since its inclusion in a country's criminal code was a product of both the culture and the legal tradition of individual societies. The death penalty could be abolished only under certain conditions, which were not the same in all countries, and, since it was an internal matter, it should not be subject to any outside interference. It was also necessary to achieve a balance between the rights of victims, those of society and the interests of justice. His Government considered that the death penalty was not a violation of human rights, but rather an effective means of protecting them and of guaranteeing respect for humanity and justice.

7. **Mr. Donigi** (Papua New Guinea) said that he endorsed the amendments proposed by the representative of Egypt to draft resolution A/C.3/54/L.8, which had been sponsored by some 80 Member States and appeared in documents A/C.3/54/L.31 and A/C.3/54/L.32. His delegation endorsed those amendments not only because it believed in the imposition of the death penalty, but for much more fundamental reasons, as demonstrated by his own country's history. Twenty-four years after achieving independence, Papua New Guinea had yet to impose the death penalty; although it had come close to doing so on one occasion, its criminal justice system had made it possible for the penalty to be reduced to a life sentence.

8. The question of punishment was closely linked to issues such as the purpose and supremacy of law and the need to guarantee security and provide a deterrent against criminal conduct. It was a matter that, without a shadow of a doubt, lay within the domestic jurisdiction of each State. Therefore, any resolution dealing with the right to life must include a reference to the principle set forth in Article 2, paragraph 7, of the Charter of the United Nations. Otherwise a precedent would be set that might lead to an era in which States would be subject to the whims of a super-State or institution. The international community must move with certainty, and the only certainty on the issue at hand was that an effort was being made to impose regulations on Member States and their institutions of government.

9. There had been a major outcry among the citizens of Western nations concerning the imposition of the death penalty in developing countries. Travellers entering a State must be aware that they would be bound by its laws; equality before the law was a basic democratic principle. His country's domestic legislation was based on the right to freedom and, under the Constitution, everyone was free to do anything that did not interfere with the freedom of others. An individual's freedom therefore also created obligations. The death penalty was not in itself inconsistent with the freedoms guaranteed by the Constitution of Papua New Guinea; in fact, it strengthened them and provided a deterrent that protected them. Any resolution which required the Parliament of Papua New Guinea to change its laws regarding the death penalty would constitute interference in the freedom, independence and discretion of the parliamentarians to promulgate such laws. Because the imposition of the death penalty in Papua New Guinea was left to the discretion of the judge, the draft resolution also constituted interference with the functions of the judiciary since the Supreme Court of Papua New Guinea was the only body competent to strike down legislation enacted by Parliament. His Government therefore opposed, and would continue to oppose, any move to impose such regulations on its highest legislative body or to limit the discretionary powers of its judiciary.

10. **Mr. Priputen** (Slovakia) said that he associated himself with the statement made by the representative of Finland on behalf of the European Union. The promotion, observance and protection of human rights were among the international community's top priorities, and the adoption of human rights instruments had been a historic event. The international community should strive to attain universal ratification of, and strict compliance with, those instruments, a process that would entail an increasing need for control mechanisms. His Government welcomed the opportunity for dialogue with the human rights treaty bodies and the Special Rapporteurs since it was of great assistance in promoting the implementation of those instruments at the national level.

11. In order to ensure the more effective implementation of human rights instruments, the Constitution of Slovakia established that the international conventions to which the State had acceded took precedence over national legislation. On 22 June 1999, the Slovak Republic had ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. His Government also welcomed the adoption of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which would certainly contribute to the achievement of that instrument's objectives. International organizations had a very important role to play, and close cooperation between States parties and international organizations, both intergovernmental and non-governmental, was of paramount importance. The creation of an effective mechanism to ensure respect for human rights was a function of the need to respond rapidly and adequately to violations of such rights, particularly those of children and other vulnerable groups. That would require new standards, and his Government was following closely, and taking part in, the elaboration of the optional protocols to the Convention on the Rights of the Child.

12. **Mr. Al-Absi** (United Arab Emirates) said that the death penalty was one of the major issues on which States had a right to decide, bearing in mind the beliefs of their people and their sovereign right to choose a social system and model. The death penalty was authorized under the legislation of many countries, including the United Arab Emirates, not by chance, but as a result of religious beliefs. It was the product of a legal system that was centuries old and had stood up to the passage of time, and it provided a deterrent against murder and made it possible to limit the spread of social scourges to which the developing countries were particularly vulnerable, including vengeance and the

temptation for people to take justice into their own hands, leading to a breakdown in society and fanning hatred and intolerance.

13. His Government respected the right of sovereign States to determine the legislation that governed the lives of their citizens, but it was opposed to some countries' claims to hegemony and efforts to interfere on the pretext of protecting human rights. Furthermore, the International Covenant on Civil and Political Rights authorized the application of the death penalty in certain circumstances. The legal system of the United Arab Emirates was based on Islamic law and on the values, standards, and virtues of human justice. Although the death penalty was permitted by law, it was imposed only on rare occasions and by the Emir's decree. Justice was administered to all, equally and without exception.

14. **Mr. Jemat** (Brunei Darussalam) said that his country would have preferred that the question of the death penalty had been considered in a more balanced manner. That issue had always been approached from the perspective of human rights, but focusing more on the right to life of the convicted person than on the rights of the victims and the community. The issue touched on the sovereign right of a country to establish its own judicial system. States had the right to impose the death penalty for the most serious crimes, in order to protect the country's peace and security, as stipulated in article 6, paragraph 2, of the International Covenant on Civil and Political Rights.

15. The system of capital punishment had long been used in Brunei Darussalam as a preventive mechanism and to punish very serious crimes, such as premeditated murder and drug trafficking. The system had managed to contain serious crime and maintain peace and harmony in the country, and the death penalty would therefore be upheld as a necessary component of the judicial system. Any change in a country's judicial system should be made in accordance with the will of the people; Brunei Darussalam would vote against the draft resolution on the death penalty.

16. **Mr. Ferguson** (Bahamas) said that the debate on the death penalty thus far clearly showed that there was no international consensus on the issue. Many representatives had expressed their Governments' respect for the right of those countries which had abolished the death penalty to do so, as well as their understanding of the motivation for the call for others to do likewise. However, they had also underscored that there should be equal respect and understanding for those countries which retained the death penalty. The Bahamas recognized the sovereign and inalienable right of a State to determine the best way to maintain internal order and stability, and it retained the death penalty as one of the means of achieving those objectives, consistent with internationally agreed principles of good governance. That sentence was, however, imposed only for the most serious offences and after due process of law.

17. It was inappropriate to introduce in a forum such as the Committee an issue as divisive as the abolition of the death penalty, not for a balanced exchange of views, but to seek to force countries to agree to its abolition. Such action threatened the very principles on which the Organization had been established.

18. **Ms. Kapalata** (United Republic of Tanzania) said that the question of the death penalty should be considered under agenda item 107, "Crime prevention and criminal justice", as it was more closely related to that topic than to human rights. The death penalty was useful as a means of curbing impunity. International law provided for its use in special circumstances, and the International Covenant on Civil and Political Rights recognized the right of States to impose it. In exercise of its sovereign right, the United Republic of Tanzania had chosen to retain it because it served a useful purpose, although it was resorted to very sparingly. If some States sought to impose on others a particular regime of laws, that would be tantamount to interference in their internal affairs and, in some cases, would ignore their religious traditions.

19. The United Republic of Tanzania respected the sovereign decision of those countries which had abolished the death penalty and proposed its elimination, but it believed that they should respect the decision of those countries which had chosen to retain it. The real issue was not the death penalty, but whether States had the right to promulgate the kind of laws best suited to the needs of their societies. In the view of her delegation, States had that right, which was established in the Charter of the United Nations and was one of the foundations of international law. Only a few years earlier, most of the countries which currently were abolitionist had had the death penalty on their statute books and had defended it vigorously. If they had now abolished it, they had done so because they believed that it no longer served a useful purpose. In order to

respect the various choices countries had made, the European Union should withdraw the draft resolution on the death penalty, which only served to polarize the issue and undermine the smooth functioning of the Committee.

20. **Mr. Shobokshi** (Saudi Arabia) said that Islam, as a revealed religion, clearly guaranteed human rights, and that the Constitution of Saudi Arabia, which was immutable and based on the Koran, structured the lives of the people according to religious principles which established their duties and responsibilities. Human life was a gift of God, and therefore no person could destroy it. That right was granted exclusively to the State, which could exercise it to protect society. The Koran stated that whoever killed a human being without a reason deserved divine punishment. It was impossible to say that it was a violation of human rights to follow a divine commandment.

21. The draft resolution submitted by Finland on behalf of the European Union showed that it had fallen into a trap. The right of a victim to justice, in other words the need to impose a penalty commensurate with the crime, was a human right. The human right which should be borne in mind was the right of society to security and to enjoy protection against such offences as murder, drug trafficking, terrorism and other heinous crimes. Capital punishment and other severe penalties had no relationship to human rights and should be considered under the heading of crime prevention. To abolish the death penalty or reduce its application would in practice deprive Governments of a means of meting out justice. The international community was composed of sovereign States with different cultures, traditions and religions on which they based the measures they considered necessary for the protection of society. International law recognized that capital punishment was a legitimate penalty which they could impose in accordance with their internal laws and in exercise of their sovereignty. Article 6 of the International Covenant on Civil and Political Rights stipulated that, in accordance with its laws, a country could impose the death penalty for the most serious crimes.

22. The fact that some countries had signed treaties intended to abolish the death penalty did not mean that those instruments, including the second Optional Protocol to the Covenant, on the abolition of the death penalty, should be imposed on all Member States. The countries of the European Union, like others, had the sovereign right to abolish the death penalty and also to retain it. But they did not have the right to impose their standards on other countries. Certain values were universal, but others, for cultural or religious reasons, were not. Values could not be exported. Societies adopted them if they were useful and did not contradict their cultural and religious traditions. The diversity of the values which prevailed in each society should be respected. It was to be hoped that, at the beginning of a new century marked by major changes, greater cooperation among States could be achieved on a basis of peace, equality, and brotherhood, and on respect for the values and traditions of all nations. The European Union should therefore withdraw the draft resolution, in order to avoid confrontation and division and to maintain consensus.

23. **Mr. Ajewole** (Nigeria) said that his delegation recognized the importance of United Nations human rights treaty bodies and the work of the Organization in the promotion and protection of human rights, of which Nigeria had recently been a beneficiary through the participation of a United Nations monitoring team in the elections that had ushered in the current democratic Government. Since independence, Nigeria's laws contained explicit provisions for the protection of fundamental human rights, which were in total accord with the Universal Declaration of Human Rights. In October 1993, his country had acceded to the two major human rights instruments, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and had accordingly established an independent National Commission on Human Rights. Since the current democratic Government had taken over, concrete measures had been taken to investigate past human rights violations, all political prisoners had been released and appropriate judicial processes had been put into place to bring perpetrators of human rights abuses to justice. Equal attention must be paid to all aspects of human rights, civil and political as well as social, economic and cultural. In Nigeria, poverty, unemployment and inadequate funding were limitations on development, and the Government had therefore taken steps to improve the living standards of the people. Furthermore, as a signatory to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, his country was committed to the total eradication of torture and other related practices, and had repealed all decrees that infringed on human rights.

24. The death penalty was essentially a matter of criminal justice and not a human rights issue; it was part of the policies applied by each State for the punishment of the most serious crimes which frequently reflected its values and culture. The death penalty existed in Nigeria, but it was applied only after due process of law. The rights of victims and of the community must be protected, and deprivation of life necessitated an appropriate penalty.

The meeting rose at 4.25 p.m.

United Nations A/C.3/54/SR.32

General Assembly
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Third Committee

Summary record of the 32nd meeting
Held at Headquarters, New York, on Thursday, 4 November 1999, at 10 a.m.

Chairman: Mr. Galuška ..... (Czech Republic)

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Agenda item 116: Human rights questions*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms*

(c) Human rights situations and reports of special rapporteurs and representatives*

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action*

(e) Report of the United Nations High Commissioner for Human Rights*

* Items which the Committee has decided to consider together.

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99-82163 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 116: Human rights questions

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/54/93, 137, 216, 222 and Add.1, 303, 319, 336, 353, 360, 386, 399 and Add.1, 401, 439 and 491)

(c) Human rights situations and reports of special rapporteurs and representatives (A/54/188, 302, A/54/303-S/1999/958, A/54/331-S/1999/959, A/54/359, 361, 365, 366, 387, A/54/396-S/1999/1000, A/54/409, 422, 440, 465, 466, 467, 482, 493 and 499; A/C.3/54/3 and 4)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action

(e) Report of the United Nations High Commissioner for Human Rights (A/54/36)

1. **Ms. Robinson** (United Nations High Commissioner for Human Rights), introducing her annual report (A/54/36), said that the Third Committee was uniquely situated to consider human rights from a world perspective. Embedding a culture of respect for human rights in the societies, institutions and cultures of the planet was her prime objective as High Commissioner. In her view, standards and methods were in place to achieve that objective, if the political will and resources could be committed. Her report surveyed the international standards in human rights that provided protection for the essential elements of human dignity and the range of procedures and methods the United Nations had devised to implement those standards.

2. Both she and the Secretary-General had urged all countries to ratify or accede to the core human-rights treaties by 2003, in their view a realistic time scale. Particular attention should be paid to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. She welcomed the adoption of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and urged its early ratification and entry into force.

3. It was because the implementation of those treaties would address the causes of many of the conflict situations arising in the contemporary world that she accorded such priority to the functioning of the human-rights-treaty bodies and to the improvement of human-rights special procedures, both of which would require the support and cooperation of Member States. Despite a shortage of resources, the work of the treaty bodies could indeed lead to greatly-enhanced respect for human rights on the national level.

4. Strengthening national protection and reacting to allegations of violations required the vigilant efforts of human-rights defenders. She wished to express her deepest concern for human-rights defenders and journalists who had been imprisoned, tortured and killed while defending the principles of the Universal Declaration of Human Rights. A real test of international commitment to their protection lay in the enactment of national measures to implement the Declaration on Human Rights Defenders (General Assembly resolution 53/144, annex).

5. Moreover, it was because building national human-rights cultures required human-rights capacity-building that she placed such emphasis on strengthening and modernizing the Office's technical-cooperation programme, which was making a noticeable contribution to improving the enjoyment of human rights in many countries. The regional approach had proven productive: in that regard, she noted the progress made in the Asia-Pacific region, and welcomed the Grand Bay Declaration and Plan of Action, adopted by the first Ministerial Conference on Human Rights of the Organization of African Unity (OAU), held in Mauritius in April 1999, a historic document that her Office was seeking ways and means to support. She looked forward to a visit later in November 1999 to Latin America and the Caribbean, especially to a regional workshop to be held in Quito, Ecuador, which could lay the basis for a Latin American and Caribbean regional strategy. She had decided to appoint special regional advisers to promote regional progress in human-rights protection. Mr. P. J. Bhagwati had accepted the appointment as the regional adviser for the Pacific, and she was seeking regional advisers for other areas. If the United Nations was to assist States in facing the challenge of human-rights protection, it must focus attention on a number of issues that cut across borders and required collective solutions.

6. Racism, the greatest contemporary danger to human rights, destroyed societies, prompted national and international conflicts and provoked massacres, including genocide. She therefore accorded great importance to her responsibilities as Secretary-General of the World Conference against Racism, Racial Discrimination,

Xenophobia and Related Intolerance to be held in 2001, in her view an ideal opportunity to mobilize local and national communities to participate in the campaign against discrimination. The questions of dignity and equality should be examined, achievements assessed and goals set. Although the International Decade of the World's Indigenous Peoples had made progress, attaining its objectives would require the focused action of local communities, national Governments and international organizations. Both in her role as High Commissioner for Human Rights and as coordinator for the Decade, she had been struck by the importance that indigenous peoples attached to the work of the United Nations in their behalf.

7. The question should be asked how many contemporary conflicts were rooted in the struggle for recognition of rights to economic well-being, social dignity and cultural respect. According to the 1999 *State of the World's Children*, a sixth of humanity was illiterate, and two thirds of all illiterate persons were female. With regard to the right to food, over 800 million people were chronically undernourished. In addition, the 1999 *Human Development Report* had pointed out that one quarter of the population of developing countries lacked hope of survival beyond the age of 40, access to knowledge, and basic services. Over a billion people lacked clean water and lived on incomes of less than $1 per day; one in seven children did not attend primary school.

8. The grave and widespread conflicts those statistics prefigured could be avoided if the international community took the appropriate initiative. The highest priority must be accorded to the promotion of respect for economic, social and cultural rights and the right to development. As her report indicated, extensive inter-agency work was being conducted with a view to mainstreaming respect for human rights into development spheres. A valuable contribution to that effort was the High-level Symposium on Human Development and Human Rights, held in Oslo in 1998, the papers of which had recently been published.

9. The debate must, however, be widened. Decisions on macroeconomic policy were too often made in isolation from their human-rights consequences, and social policy and budgets must attempt to remedy the resulting suffering. That was especially so with regard to the rights of children. Both the Commission on Human Rights and the Economic and Social Council had taken up that matter earlier in 1999. In addition, the World Bank was developing the human-rights element of its policy-making, and the International Monetary Fund had taken an important new step with regard to debt relief and poverty elimination.

10. In 1999, her Office had been according careful attention to the ways in which the human-rights bodies could improve their contribution to protecting child rights, with emphasis on children in armed conflict and juvenile justice. She urged a rapid conclusion to the draft optional protocol that would raise the age of recruitment into the armed forces to 18, and exhorted the international community fully to enforce the existing norm of 15 years old. It was deplorable that children under that age should be recruited into the army and exposed to the dangers of combat. She likewise called on arms-exporting countries to refrain from supplying weapons to countries that enrolled children in armed forces, a violation of the Convention on the Rights of the Child.

11. In view of the stark abuses to which children were subjected under criminal-justice systems, the Committee on the Rights of the Child had asked her to consider ways of inculcating an understanding of child rights, and promoting their implementation, in juvenile-justice procedures. The preparatory process for an international conference on that topic should, in her view, allow for progress to be made in addressing those problems. That process should, however, be broadened to include, *inter alia*, respect for the rights of children in the care of the State, an issue she intended to examine with the help of that Committee, the United Nations Children's Fund (UNICEF) and concerned non-governmental organizations.

12. Creating a human-rights culture and thereby preventing massive human-rights violations required work, time and patience. Unfortunately, that task had been overshadowed by tragic, large-scale violations of human rights in such places as Cambodia, Rwanda, the Democratic Republic of the Congo, Kosovo and East Timor. The public, vividly exposed to those horrors by the media, could only ask why the international community, and the United Nations in particular, had been unable to prevent them from happening — especially since warnings had been sounded well before some of those crises had occurred.

13. In her view, the challenge of the twenty-first century was to introduce the concept of prevention (and prevention techniques) at the international level. One such technique was human-rights institution building, which included, for instance, efforts within the United Nations system to improve early-warning and conflict-prevention capacities. And yet, when confronted with impending human-rights disasters, the international community was often incapable of action. The reports of special rapporteurs and working groups and the work of the treaty bodies offered valuable independent sources of information and analysis that could prevent disaster if they were translated into action. She was

indeed deeply concerned by the failure of the international community to prevent human suffering.

14. The question arose whether an international mechanism could be created that would consider such information and propose action. Such a mechanism — necessarily involving the participation of Member States — might, for instance, meet periodically in private to review information. Approaches could range from quiet diplomacy to public calls to action. In order, however, to win confidence and to develop a sense of shared responsibility, provisions would also have to be made for public scrutiny of its work. Transparency could perhaps be achieved by publicizing discussions at set intervals, a practice sometimes applied at the national level.

15. Personal accountability and the elimination of impunity were crucial factors in the prevention of gross violations of human rights. Increasingly, courts were prosecuting human-rights cases regardless of where and when they occurred, a welcome development. Welcome, too, were the establishment of international tribunals for Yugoslavia and Rwanda and the adoption of the Rome Statute of the International Criminal Court, which established competency over genocide, crimes against humanity and war crimes. She urged all States to ratify the Statute, allowing the International Criminal Court to commence its work.

16. The creation of a worldwide culture of respect for human rights indeed faced enormous challenges, which some might balk at undertaking. And yet, the drafters of the Charter and the Universal Declaration of Human Rights had embraced a similar vision, and the world had benefited. A strong system of rules and procedures had been constructed, and support for human rights was growing all over the world. In her view, respect for human rights should not be seen as an unrealizable ideal. It would, however, require Governments to make responsible decisions. The United Nations, which was universal, impartial, and listened to the voices of the weak, was the ideal focus for launching human-rights actions. As the Millennium Assembly approached, strong relationships must also, however, be developed with civil society, in order better to hear the voices of the world's peoples.

17. **Mr. Rytövuori** (Finland), speaking on behalf of the European Union, inquired as to the status of the academic study of the human-rights-treaty system mentioned in paragraph 25 of the report. Paragraph 39 spoke of the challenges identified at the second meeting of field presences, held in Geneva; further information would be welcome.

18. **Mr. Rogov** (Russian Federation) inquired what strategies had been developed for the Kosovo field office. He would also like to know whether and in what ways the lessons of Kosovo had been considered in the planning of future actions of the Office.

19. **Ms. El-Hajjaji** (Libyan Arab Jamahiriya) said that the criteria used when deciding to intervene in cases of grave human-rights violations in a particular State had never been properly defined. Certain States used human rights as a pretext to legitimize interference, often under the umbrella of the United Nations, in the internal affairs of other countries. Such initiatives undermined the precepts of international human-rights law and weakened international organizations. Cases of intervention had also occurred without any mandate from the international community and with a total disregard for its wishes. The Libyan Arab Jamahiriya categorically rejected any and all such initiatives.

20. Selectivity and double standards were at work with respect to intervention for human-rights reasons, as the Kosovo crisis had demonstrated. The major Powers often used human rights as a foreign-policy weapon with which to achieve their strategic, economic and ideological objectives. Such conduct undermined the credibility and very principle of human-rights protection and promotion.

21. **Ms. Robinson** (United Nations High Commissioner for Human Rights) said that a final draft of the conclusions of the study of the treaty-monitoring system should be ready for consideration by the end of 1999, and that the report was scheduled to be finalized in early January. An interim study on resources for monitoring bodies had concluded that they were gravely underfunded. At the meeting of the Chairpersons of Human Rights Treaty Bodies held in June, the chairpersons had agreed to draw up a coordinated plan of action so as to conduct more efficiently the work of the various committees. It had been acknowledged that their work was hampered by a shortage of staff and inadequate information technologies. In the current budget, she had made allocations for two additional posts; an estimated seven more would, however, be needed adequately to serve their needs. She would be approaching Governments during the current month to request support for the work of those bodies.

22. A number of recommendations had arisen from the two meetings of field presences, among them the need to administer and back up field presences more efficiently, since they were an important component in human-rights outreach. That was a high priority of her Office.

23. The Office had recommended the appointment of a senior human-rights adviser to work with officials in the

field offices at Priština. In addition, the Task Force on Minority Issues was working to address the significant problem of minorities in Kosovo. A recently established commission on prisoners and detainees, chaired by the chief of the Belgrade field office, would also address the problem of separated or lost family members. Importantly, there was a Serbian presence on that body.

24. The important question of what rules and conditions should apply in humanitarian interventions had been raised by the Secretary-General, and was on the agenda of the General Assembly; in fact, it was more properly the domain of the General Assembly and the Security Council than of her Office. For her part, she had submitted reports on the situation in Kosovo to the Commission on Human Rights. Kosovo had been bombed during the session of the Commission, which had received regular reports on the evolution of the conflict. The Commission had later expressed its willingness to continue to deal with the matter of Kosovo after the conclusion of the session. That was the first time that it had addressed gross violations of human rights while not in plenary session, an unprecedented and encouraging development.

25. **Ms. Buck** (Canada) asked what were the resource requirements of building national human-rights capacities, and what States could do to assist the Office in that effort. She would also like to know whether the Office was taking steps to integrate human-rights expertise into field presences of other spheres of United Nations activity — diplomatic, humanitarian, developmental and political.

26. **Mr. Umeda** (Japan) asked whether the Office had established a cooperative relationship with the Government of Indonesia, and what sort of relationship it envisaged between an international commission of inquiry and the Indonesian national human-rights commission.

27. **Mr. Šimonović** (Croatia) said that his Government was endeavouring to fulfil its international human-rights obligations. Small countries were, however, overburdened by the repetitive production of reports to treaty-monitoring bodies; there was an urgent need for coordination among United Nations treaty-monitoring mechanisms and between those bodies and regional mechanisms. A continuation of current procedures and methods would probably not improve the human-rights situation in Croatia; it might prove more worthwhile to establish human-rights programmes such as those administered by the Office of the United Nations High Commissioner for Human Rights and the Council of Europe.

28. **Ms. Robinson** (United Nations High Commissioner for Human Rights) said that the development of national human-rights institutions was becoming an increasingly important aspect of her Office's work, placing growing demands on its resources. She had proposed that additional funds should be allocated in order to allow her Office to more fully such integrate such work with its other activities. More support was needed for initiatives based on information exchange and sharing of experiences between national institutions engaged in national human-rights capacity-building. If a new form of human-rights colonialism was to be avoided, the focus should be placed on capacity-building from within. The need for capacity-building was not limited to developing countries, as the recent establishment of commissions for peace, reconciliation and human rights in Belfast and Dublin illustrated.

29. There was a clear need for early action and effective human-rights mechanisms to prevent conflict that gave rise to gross human-rights violations. Such matters clearly fell under the mandate of the Committee, which should give consideration to how such a need might be met within the system. There was already better coordination within the United Nations and a healthy level of informal debate, promoting the mainstreaming of human-rights issues in the policy area.

30. With regard to Indonesia, her Office accorded high priority to the maintenance of good relations with that country. She had acceded to requests from the Indonesian national human-rights commission for technical assistance. Her Office supported and welcomed the establishment of Indonesia's first ever Ministry of Human Rights and looked forward to further cooperation with the new Indonesian Government, including with respect to the work of the international commission of enquiry into events in East Timor.

31. Her Office's technical-cooperation project with Croatia was developing well and her recent visit to that country had proved very fruitful. The issue of the mandates of special rapporteurs was a question for the Commission on Human Rights, although there was clearly a need to strengthen human-rights mechanisms, especially at the regional level. In that regard, her Office sought to work with regional bodies in order to develop a strong regional human-rights system.

32. **Mr. Yu Wenzhe** (China) asked whether the High Commissioner viewed the protection of human rights and the need to respect the sovereignty of States as being complementary, and also how her Office managed to maintain a balance between the services it provided to States and the imperative to avoid interference in their internal affairs. He wanted to know what sources of funding were used to finance human-rights field offices and how the funds

were used. He further wondered what plans her Office had made in preparing for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in 2001.

33. **Mr. Fernández Palacios** (Cuba) said that his Government was disturbed by the emphasis on the strengthening of human-rights mechanisms, at the expense of other more important issues. The priorities of that Office should be decided by the Member States themselves. The report made no mention, for example, of the human-rights atrocities continually being committed in Israeli-occupied areas of the Arab world. It was essential to preserve and maintain objectivity and impartiality in human-rights matters.

34. **Mr. Rahmtalla** (Sudan) wondered what specific ideas the High Commissioner had with regard to the creation of an international early-warning mechanism to avert conflict that could give rise to gross human-rights violations. He wanted to know if the proposal was for the creation of a new international mechanism, and what its status would be vis-à-vis existing United Nations bodies. He added that the delay in issuing the special rapporteurs' reports made it very difficult for delegations to consult in a timely manner with their capitals. His delegation had received the report pertaining to the Sudan (A/54/467) only a few hours before it was to be discussed by the Committee.

35. **Ms. Robinson** (United Nations High Commissioner for Human Rights) said that she did not see any contradiction between respect for human rights and respect for the sovereignty of States. Fact-finding missions and field offices operated under a mandate formulated in agreement with the Government concerned. Field-office funding generally came from extrabudgetary resources, except in the case of Cambodia. The burden of raising funds was considerable, but the process itself was transparent.

36. Technical-cooperation projects followed a standard procedure, beginning with needs assessment and culminating in implementation based on a memorandum of understanding with the State involved. The process itself recognized the sovereignty of the State, and her Office looked forward to completing the final stages of the process with China. With regard to planning the 2001 Conference, her Office accorded priority to that task, in which the involvement of Governments and civil society was vital.

37. With regard to the comments of the representative of Cuba, it was important to recall that human-rights mechanisms mandated by Member States, as mediated through the Commission on Human Rights and the Third Committee. The United Nations High Commissioner for Human Rights was responsible for ensuring that adequate services were provided to experts and special rapporteurs who received no remuneration for the excellent work they performed. She herself was committed to ensuring that the resources were made available to fulfil the mandates given by Member States. However, the demarcation line was clearly defined.

38. The Sudanese representative had made a welcome comment on the issue of early action to avert gross human-rights violations. While her Office had no blueprint for a mechanism that could be created, it was nonetheless convinced that modalities in other forums could be drawn upon in order to raise the necessary political will within the United Nations system. She would welcome any ideas from the Committee in that regard.

39. **Mr. Al-Humaimidi** (Iraq) said that his delegation had received the report relating to human rights in Iraq (A/54/466) only the day before it was to be discussed by the Committee. Such tardiness impeded proper consultation with the competent national institutions. He hoped that future reports would be issued a week in advance, in order to facilitate constructive dialogue.

40. **Mr. Pal** (India) asked whether the United Nations High Commissioner for Human Rights shared his view that there was an endemic problem in human-rights agencies whereby human-rights protection was stressed at the expense of human-rights promotion, at times spilling over into a form of human-rights policing.

41. The problem of resources was common to all United Nations bodies, but the imbalance within human-rights bodies was particularly marked. While there was a set ceiling for regular budgetary resources, there appeared to be no shortage of extrabudgetary resources for programmes of interest to donor States. The mandates of human-rights bodies were determined internationally, but there was an inherent imbalance, if there was no money for one sector and plenty of money for another.

42. His delegation urged caution with respect to the creation of any early-warning mechanism, particularly if it came to be cast in the mould of a human-rights security council. The Security Council already met increasingly in private. It was important to avoid creating another body of that kind.

43. With regard to comments concerning the mainstreaming of human rights in economic policy, it should be noted that the current structure of international development assistance meant that developing-country Governments were often least able to influence

macroeconomic policy. Furthermore, history had indeed shown the dangers of human-rights colonialism.

44. **Mr. Chowdhury** (Bangladesh), noting that, according to the High Commissioner's report (A/54/36, para. 59), "the realization of economic, social and cultural rights and the right to development" was a main priority of her Office, asked why those particular rights had been grouped together, and why there was no mention of civil and political rights. His delegation would also appreciate more information on the work of the United Nations Development Group on the United Nations Development Assistance Framework and on training modules on human rights for country teams.

45. **Ms. Robinson** (United Nations High Commissioner for Human Rights), replying to the representative of Iraq, said she regretted the late issuance of certain documents. Her Office was working on the matter. Meanwhile, unedited versions of the reports had been made available on the Internet since 23 October.

46. Responding to the question put by India, she said that her Office focused on both the promotion and protection of human rights. Much progress had been achieved in regard to technical cooperation at the country and regional levels. Members of the Fifth Committee should be encouraged to support the proposed modest increase in her Office's budget. The funding pledged by the United Nations Foundation was most welcome. Although core work should be funded essentially from the core budget, extrabudgetary contributions were vital. It was important to ensure that the Office's agenda did not become donor-led, which was why unearmarked funding was particularly appreciated.

47. Replying to the representative of the Sudan, she said that gross violations of human rights had been identified by the Commission on Human Rights as the major problem. There was no blueprint for dealing with conflict situations, which was why she hoped to encourage the Committee to devise new modalities.

48. With regard to the impact of globalization on human rights, it was too soon for her to comment on the pilot phase of the World Bank's Comprehensive Development Framework (A/54/36, para. 64).

49. Responding to the representative of Bangladesh, she said that, since economic, social and cultural rights were not accorded sufficient attention at the international level, she was determined to redress the balance. The right to development was also a priority and was closely linked to the other rights. A training manual was being finalized (A/54/36, para. 63) as part of efforts to mainstream human rights at the country level. Her Office was also cooperating closely with the Working Group on the Right to Development.

50. **Mr. Issa** (Lebanon) asked what procedures had been adopted to rectify human-rights violations in occupied areas of his country, in view of the refusal of the occupying Power to cooperate.

51. **Mr. Goledzinowski** (Australia) welcomed the close cooperation between the United Nations and its international partners; Member States, indeed, were lagging behind in that regard. Further information on cooperation between the Office of the High Commissioner, independent experts and the Working Group on the Right to Development would be appreciated.

52. **Ms. Lee** (Singapore) disputed the claim that the death penalty constituted a violation of human rights under international law, and reiterated her Government's position which had been expressed at the 30th meeting. States not party to the Second Optional Protocol were surely not bound by its provisions. Moreover, there was no international consensus for abolition. Singapore would appreciate hearing the High Commissioner's reaction to its letter (A/C.3/54/5).

53. **Mr. Mutabobs** (Rwanda) expressed his Government's appreciation for the technical assistance provided to his country by the Office of the High Commissioner, particularly its support for the new national commission on human rights. As for early warning of human-rights disasters, it was well known that the capacity had existed to avert the genocide in Rwanda. However, little good could come of apportioning blame for the inaction. More practical advice would be appreciated, in particular on how to deal with those responsible for the genocide. Such criminals were currently on the loose, moving surreptitiously from one State to another, including some which were parties to the Convention on the Prevention and Punishment of the Crime of Genocide.

54. **Ms. Robinson** (United Nations High Commissioner for Human Rights) said that her Office was already supporting special procedures for rectifying the human-rights situation in South Lebanon. She hoped to make a visit to Lebanon in early 2000 to further assess the situation. Responding to the representative of Australia, she said that her Office aimed to provide practical support to the Working Group on the Right to Development.

55. Addressing the issue raised by Singapore, she said that she had only just received the letter in question. She stood by her statement on the death penalty released on 12 October 1999, which had been well-considered at the time. Not only was it fully in line with international law, but it also reflected

the actual situation with regard to ratification of the Second Optional Protocol. While the death penalty had yet to be banned, the trend towards abolition was clear. On several occasions, she had also expressed her concern at the use of the death penalty for juvenile offenders, which was a clear violation of the Convention on the Rights of the Child. Her aim was to encourage a public debate on the issue. She respected the views of all Member States.

56. She had recently met with OAU representatives to discuss the aftermath of the Rwandan genocide. It was to be hoped that the resulting report would prove useful.

57. Her Office relied on the support of Member States. Human-rights work was no easy task; above all, it required balance and objectivity. Clearly, human rights must be high on the agenda. National plans of action for responding to conflicts were an encouraging development, but political will was needed to advance their goals. There was certainly no cause for complacency. The Third Committee and the United Nations as a whole could do more to advance the issue.

58. **Sir Nigel Rodley** (Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment) introduced his interim report (A/54/426), which covered the period from 15 December 1992 to 31 August 1999. The main activities under his mandate were outlined in paragraph 6. Chapter III contained statistical information; the letters referred to in paragraph 16 had been sent to a total of 121 countries. As indicated in paragraph 23, to avoid duplication in respect of country-specific initiatives, he had sent urgent appeals or transmitted information alleging violations to Governments jointly with country-specific and thematic mechanisms of the Commission on Human Rights.

59. While some States had replied expeditiously to his communications, others had not. He appreciated the burden that the communications imposed on Governments, but urged all Governments to respond to them substantively and in a timely manner. He emphasized that his communications were not intended to be an indictment of Governments; they were designed to clarify situations, identify possible shortcomings and establish a dialogue that would assist the recipient.

60. *In situ* visits were another important aspect of his work: the missions which he had carried out since taking up his mandate were listed in paragraph 30 of his report. The reports of the missions he had carried out in 1999 would be submitted to the Commission on Human Rights. In addition to the visits mentioned in the report, he had made a brief visit to Portugal with regard to East Timor. Pursuant to a request made in the Commission on Human Rights, he would be leaving for East Timor that same day, together with the Special Rapporteur on extrajudicial, arbitrary and summary executions and the Special Rapporteur on violence against women. Visits enabled him to see the situation on the ground and to discuss with relevant officials the internal procedures established to protect the right to which his mandate related.

61. His requests for invitations to visit Algeria, Bahrain, Brazil, Egypt, India, Indonesia and Tunisia remained uncomplied with. He was happy to note that a visit to China was expected to take place in the second quarter of the year 2000.

62. To coordinate his activities with other torture-related mechanisms, he had, as indicated in paragraphs 32 to 34 of the report, held formal and informal meetings with the Board of Trustees of the Voluntary Fund for Victims of Torture and with the Committee against Torture.

63. Chapter IV of the report dealt with issues of special concern to the Commission on Human Rights and most of them had been discussed in his reports to that body. He hoped that States would give the same priority to implementation of the Convention against Torture as to the implementation of all other human-rights instruments.

64. There were three topics discussed in his report to which he wished to draw special attention. First was the question of the torture of human-rights defenders (ibid., paras. 43-44). Human-rights defenders were on the front line of the campaign against human-rights violations: without their courageous efforts, impunity would be a far greater problem and the international community would be less well informed about such violations. Unfortunately, they were too often targets of government repression. The adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (General Assembly resolution 53/144, annex) had been an important step towards providing them with the security they needed to carry out their work: it was now incumbent on States to take all necessary measures to ensure their protection.

65. Second was the question of the establishment of the International Criminal Court (ibid., paras. 56-59). The Rome Statute represented a landmark in international criminal law, reaffirming as it did that systematic or widespread torture was a crime against humanity. The establishment of the Court would help to combat the impunity which fostered that crime. He joined the High Commissioner for Human Rights in urging all countries to sign and ratify the Statute.

66. Third was the elaboration of the manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, otherwise known as the Istanbul Protocol (ibid., paras. 53-55). The manual would include the principles annexed to his report. He believed that the manual would be an important tool for States in investigating allegations of torture and he therefore hoped that the recommendation concerning it contained in paragraph 55 of his report would be approved. He also hoped that States would give due consideration to the wider recommendations contained in chapter V of the report.

67. The numbers of urgent appeals and letters concerning general allegations he had sent were graphic proof that, as the world entered a new millennium, too many Governments simply lacked the political will to stop the crime of torture. Torture and other forms of ill-treatment were occurring in all regions of the world as he spoke. The international community had to strengthen its efforts to eradicate the problem and to assist those who had been victims of what was a crime under international law.

68. **Ms. Buck** (Canada) asked the Special Rapporteur to describe how he was cooperating with the Commission on Crime Prevention and Criminal Justice in promoting the implementation of the Convention against Torture and how he was working with the Committee against Torture to improve its efficiency.

69. **Mr. Nour** (Egypt) noted that the Special Rapporteur had said that his requests for invitations to a number of countries remained "uncomplied with". As the question of inviting the Special Rapporteur to his country was under active consideration by the appropriate Egyptian authorities with a view to issuing an invitation when that was thought fit, he felt that the Special Rapporteur's expression was inaccurate with regard to Egypt.

70. The Special Rapporteur had also said that visits to countries enabled him to see the situation "on the ground". Why, then, had he gone to Portugal concerning East Timor? Had that visit been of help to East Timor?

71. **Ms. Grambye** (Denmark) asked the Special Rapporteur for his opinion of States' action on his recommendations following *in situ* visits.

72. **Sir Nigel Rodley** (Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment) said that his cooperation with the Commission on Crime Prevention and Criminal Justice was limited by the fact that the Commission was increasingly focusing on issues such as organized crime, rather than on the implementation of international standards in criminal-justice systems. While it was true that the Commission had interregional advisers for technical-assistance activities and that they sometimes interacted with the Office of the High Commissioner regarding advisory services, he was not involved in those activities.

73. As for cooperation with the Committee against Torture, he had had several meetings with that body and with the Office of the High Commissioner and the Board of Trustees of the Voluntary Fund for Victims of Torture, leading to joint declarations in 1998 and 1999 on the occasion of the International Day in Support of Victims of Torture. It should be noted that the Committee was empowered, under article 20 of the Convention against Torture, to investigate allegations of systematic torture. Such investigations were confidential and for that reason and to avoid duplication of effort he could not look into the allegations until the Committee had completed its work.

74. He assured the representative of Egypt that there was no question of States being obliged to accept his visits. As stated in paragraph 6 (d) of his report, visits were made with the consent of the Government concerned. Like his country's Mission in Geneva, the representative had sounded positive concerning the possibility of an invitation to visit Egypt; it was to be hoped that after so many years an invitation would materialize.

75. His visit to Portugal regarding East Timor had been made in 1996, at the invitation of the Portuguese Government, and had been for the purpose of meeting alleged victims and witnesses of torture, as well as doctors who had treated alleged victims. It had enabled him to collect information that would not otherwise have been available. He had transmitted that information to the Government concerned and had reflected it in the country-specific part of his annual report to the Commission on Human Rights.

76. He could give no certain reply to the question put by the representative of Denmark since resource constraints prevented the processing in time for inclusion in his annual report to the Commission on Human Rights of all the information received from Governments subsequent to his visits. His overall impression, however, was that most of the countries he had visited had not complied with most of his recommendations.

77. **Mr. Rytövuori** (Finland) thanked the Special Rapporteur on behalf of the European Union for his statement and the way he carried out his mandate. He asked whether there had been any progress in eliminating torture

since the Special Rapporteur's latest report to the Commission on Human Rights.

78. **Sir Nigel Rodley** (Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment) said that he would be hard-pressed to report any improvement, not least because the information at his disposal had not yet been systematically analysed. Consequently, he would not be either positive or negative in replying. What he could say was that his experience of human-rights work had taught him that major improvements rarely occurred overnight. If torture was practised in a State other than in very occasional instances, that meant there was a problem in the body politic and, therefore, in the body administrative; correcting such problems required firm political will and considerable resources. However, even though a long-term effort might be necessary, sight should not be lost of the urgency of eliminating torture.

The meeting rose at 12.50 p.m.